



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/673,689

09/29/2003

Jan Andersson

06275-131002

1299

26161 7590 03/13/2008
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER

PATEL, NIHIR B

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

03/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/673,689	Applicant(s) ANDERSSON ET AL.	
	Examiner NIHIR PATEL	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11.29.2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-41, 55-64 and 73 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 55-64 is/are allowed.
- 6) ☒ Claim(s) 34-39, 41 and 73 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11.09.2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on November 29th, 2007 have been fully considered but they are not persuasive. The applicant argues that Coccozza does not teach or suggest at least one of the surfaces of the flow path that is movable relative to at least one other surfaces of the flow path as stated in claim 34 and a scarper that is movable relative to at least one surface of the flow path as stated in claim 35. The examiner disagrees with the applicant's arguments. Column 10 lines 15-20 of the Coccozza states that "It is however apparent that other disintegration means such as a rotatable impeller can be used", since the impeller is rotatable it implies that the scraper is movable relative to at least one surface of the flow path.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **34-39 and 41** is rejected under 35 U.S.C. 102(b) as being anticipated by Coccozza (US 5,033,463).

4. **As to claim 34**, Coccozza teaches an apparatus multi-dose inhaler for medicaments in powder that comprises a dosing unit **2** for providing a dose of powder (**see figure 10; column 8 lines 5-20**); and a flow path downstream of the dosing unit which is defined by a plurality of surfaces through which a stream of air entering the dose of powder is in use drawn on inhalation

Art Unit: 3772

by a user (**see column 10 lines 15-35**); characterized in that at least one of the surfaces of the flow path is movable relative to at least one other surfaces of the flow path and in that the inhaler further comprises a powder dislodging member which is of fixed position relative to one of the at least one or at least one other of the surfaces of the flow path and is configured on relative movement of the at least one and one other of the surfaces of the flow path, to contact the other of the at least one or at least one other of the surfaces of the flow path such as to dislodge powder accumulated thereon, wherein the powder dislodging member comprises one of a scraper or a brush (**see figure 10; column 10 lines 1-15; the helical element 188 is defined as the scraper or brush and it contacts the other of the at least one or at least one other of the surfaces of the flow path see figure 10**).

5. As to **claims 35 and 73**, , Cocozza teaches an apparatus multi-dose inhaler for medicaments in powder that comprises a dosing unit **2** for providing a dose of powder (**see figure 10; column 8 lines 5-20**); and a flow path downstream of the dosing unit which is defined by a plurality of surfaces through which a stream of air entering the dose of powder is in use drawn on inhalation by a user (**see column 10 lines 15-35**); characterized in that the inhaler further comprises a scraper/brush (**see column 10 lines 15-20**) which is movable relative to at least one of the surfaces of the flow path and is configured, on movement thereof relative to the at least one of the surfaces of the flow path, to contact the at least one of the surfaces of the flow path such as to dislodge powder accumulated thereon (**see figure 10; column 10 lines 1-15; the helical element 188 is defined as the scraper or brush and it contacts the other of the at least one or at least one other of the surfaces of the flow path see figure 10**).

Art Unit: 3772

6. **As to claim 36**, Coccozza teaches an apparatus wherein the at least one of the surfaces of the flow path is movable relative to at least one other surfaces of the flow path and the scraper is of fixed position relative to the at least one other of the surfaces of the flow path (**see figure 10; column 10 lines 1-15; the helical element 188 is defined as the scraper or brush and it contacts the other of the at least one or at least one other of the surfaces of the flow path see figure 10**).

7. **As to claim 37**, Coccozza teaches an apparatus wherein the flow path includes a chamber which includes an inlet **178** and an outlet **172** (**see column 10 lines 20-30**).

8. **As to claim 38**, Coccozza teaches an apparatus wherein the at least one of the surfaces of the flow path defines at least part of the chamber (**see column 10 lines 20-40**).

9. **As to claim 39**, Coccozza teaches an apparatus wherein the at least one and the at least one other of the surfaces of the flow path define at least in part opposed surfaces of the chamber and include the inlet and the outlet thereto (**see column 10 lines 20-30**).

10. **As to claim 41**, Coccozza teaches an apparatus that further comprises a mouthpiece which includes one of the at least one or at least one other of the surfaces of the flow path (**see column 10 lines 5-30**).

Allowable Subject Matter

11. Claims **55-64** are allowed. The prior art does not disclose a cap for covering at least the mouthpiece, which cap includes a screw thread for engaging the screw thread of the housing and a mouthpiece and a cap that are configured such that at least part of the mouthpiece is rotated relative to the housing on one of screwing or unscrewing the cap; characterized in that the at

Art Unit: 3772

least part of the mouthpiece remains substantially in fixed position relative to the housing on the other of screwing or unscrewing the cap; characterized in that the at least part of the mouthpiece remains substantially in fixed position relative to the housing on the other of screwing or unscrewing the cap.

12. Claim **40** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach a storage chamber for storing a plurality of doses of powder, which storage chamber includes a filling inlet in one of the opposed surfaces of the chamber, and a plug for sealing the filling inlet of the storage chamber, which plug includes the scraper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIHIR PATEL whose telephone number is (571)272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nihir Patel/
Examiner, Art Unit 3772

/PATRICIA BIANCO/
Supervisory Patent Examiner, Art Unit 3772